

By: Representative Ellington

To: Municipalities; County
Affairs

HOUSE BILL NO. 796

1 AN ACT TO AMEND SECTION 21-1-27, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE FOR AN ELECTION ON THE QUESTION OF MUNICIPAL ANNEXATION IN
3 THE TERRITORY PROPOSED TO BE ANNEXED WHEN THE GOVERNING
4 AUTHORITIES OF A MUNICIPALITY DESIRE TO ENLARGE THE MUNICIPALITY'S
5 BOUNDARIES; TO AMEND SECTIONS 21-1-29, 21-1-31, 21-1-33, 21-1-35,
6 21-1-37 AND 21-1-39, MISSISSIPPI CODE OF 1972, TO REMOVE THE
7 QUESTION OF MUNICIPAL ANNEXATION FROM THE CHANCERY COURT; AND FOR
8 RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** Section 21-1-27, Mississippi Code of 1972, is
11 amended as follows:

12 21-1-27. (1) The limits and boundaries of existing cities,
13 towns and villages shall remain as now established until altered
14 in the manner * * * provided in this chapter. When any
15 municipality * * * desires to enlarge or contract its
16 boundaries * * * by adding to its boundaries adjacent
17 unincorporated territory or excluding from its boundaries any part
18 of the incorporated territory of the municipality, the governing
19 authorities of the municipality shall pass an ordinance defining
20 with certainty the territory proposed to be included in or
21 excluded from the corporate limits, and also defining the entire
22 boundary as changed. If the municipality desires to enlarge the
23 boundaries, the ordinance must in general terms describe the
24 proposed improvements to be made in the annexed territory, the
25 manner and extent of the improvements, and the approximate time
26 within which the improvements are to be made; the ordinance * * *
27 also must contain a statement of the municipal or public services
28 that the municipality proposes to render in the annexed territory.
29 If the municipality * * * desires to contract its boundaries, the
30 ordinance must contain a statement of the reasons for the

31 contraction and a statement showing how the public convenience and
32 necessity would be served by the contraction.

33 (2) If twenty percent (20%) of the qualified electors
34 residing in the territory proposed to be annexed by a municipality
35 petition the governing body of the municipality for an election on
36 the question of the proposed annexation within sixty (60) days
37 after public notice of the adoption of the annexation ordinance,
38 the board of supervisors of the county or counties in which the
39 territory proposed to be annexed is located shall hold an election
40 in the territory on the question of the proposed annexation. The
41 election shall be held within sixty (60) days after certification
42 of the petition by the municipal clerk. Notice of the election
43 shall be published in a newspaper having a general circulation in
44 the territory proposed to be annexed once a week for three (3)
45 consecutive weeks before the election date, and the first
46 publication shall be made not less than twenty-one (21) days
47 before the election date. The election shall be held in the same
48 manner as are other county elections. If a majority of the
49 qualified electors voting in the election vote for the ordinance,
50 the ordinance is approved. If a majority of the qualified
51 electors voting in the election vote against the ordinance, the
52 ordinance is not approved. If approved in the election, the
53 ordinance becomes effective ten (10) days after the date of the
54 final determination of the results of the election or on a later
55 date that is specified in the ordinance. If a petition for an
56 election is not filed, the ordinance becomes effective sixty (60)
57 days after public notice of the adoption of the ordinance or on a
58 later date that is specified in the ordinance. If the ordinance
59 is not approved in the election, the municipality may not adopt
60 another ordinance proposing the annexation of any of the same
61 territory for a period of five (5) years from the date of the
62 election.

63 **SECTION 2.** Section 21-1-29, Mississippi Code of 1972, is
64 amended as follows:

65 21-1-29. When any * * * ordinance proposing to contract the
66 municipal boundaries is passed by the municipal authorities, the
67 municipal authorities shall file a petition in the chancery court
68 of the county in which the municipality is located * * *. The
69 petition shall recite the fact of the adoption of the ordinance
70 and shall pray that the * * * contraction of the municipal
71 boundaries * * * be ratified, approved and confirmed by the court.
72 There shall be attached to the petition, as exhibits * * *, a
73 certified copy of the ordinance adopted by the municipal
74 authorities and a map or plat of the municipal boundaries as they
75 will exist if the contraction becomes effective.

76 **SECTION 3.** Section 21-1-31, Mississippi Code of 1972, is
77 amended as follows:

78 21-1-31. Upon the filing of the petition and upon
79 application therefor by the petitioner, the chancellor shall fix a
80 date certain, either in termtime or in vacation, when a hearing on
81 the petition will be held, and notice of the hearing shall be
82 given in the same manner and for the same length of time as is
83 provided in Section 21-1-15 with regard to the creation of
84 municipal corporations. All parties interested in, affected by,
85 or being aggrieved by the proposed * * * contraction * * * have
86 the right to appear at the hearing and present their objection to
87 the proposed * * * contraction. * * *

88 **SECTION 4.** Section 21-1-33, Mississippi Code of 1972, is
89 amended as follows:

90 21-1-33. If the chancellor finds from the evidence presented
91 at the hearing that the proposed * * * contraction is reasonable
92 and is required by the public convenience and necessity * * *, the
93 chancellor shall enter a decree approving, ratifying and
94 confirming the proposed * * * contraction, and describing the
95 boundaries of the municipality as altered. In so doing the

96 chancellor has the right and the power to modify the
97 proposed * * * contraction by decreasing the territory to be * * *
98 excluded from the municipality * * *. If the chancellor * * *
99 finds from the evidence that the proposed * * * contraction * * *
100 is unreasonable and is not required by the public convenience and
101 necessity, then he shall enter a decree denying the contraction.
102 In any event, the decree of the chancellor * * * becomes effective
103 after the passage of ten (10) days from the date of the decree or,
104 if an appeal is taken therefrom, within ten (10) days from the
105 final determination of the appeal. In any proceeding under this
106 section the burden is upon the municipal authorities to show that
107 the proposed * * * contraction is reasonable.

108 **SECTION 5.** Section 21-1-35, Mississippi Code of 1972, is
109 amended as follows:

110 21-1-35. If no objection is made to the petition for
111 the * * * contraction of the municipal boundaries, the
112 municipality shall be taxed with all costs of the proceedings. If
113 objection is made, the costs may be taxed in a manner as the
114 chancellor * * * determines to be equitable under the Mississippi
115 Rules of Civil Procedure. If there is an appeal from the judgment
116 of the chancellor, the costs incurred in the appeal shall be taxed
117 against the appellant if the judgment is affirmed, and against the
118 appellee if the judgment is reversed.

119 **SECTION 6.** Section 21-1-37, Mississippi Code of 1972, is
120 amended as follows:

121 21-1-37. If the municipality or any other interested person
122 who was a party to the proceedings in the chancery court is
123 aggrieved by the decree of the chancellor regarding contraction of
124 the municipal boundaries, then the municipality or other person
125 may prosecute an appeal from the chancellor's decree within the
126 time and in the manner and with like effect as is provided in
127 Section 21-1-21 in the case of appeals from the decree of the
128 chancellor with regard to the creation of a municipal corporation.

129 **SECTION 7.** Section 21-1-39, Mississippi Code of 1972, is
130 amended as follows:

131 21-1-39. (1) Whenever the corporate limits of any
132 municipality are contracted, as herein provided, the chancery
133 clerk * * *, after the expiration of ten (10) days from the date
134 of the decree, if an appeal is not taken therefrom, shall forward
135 to the Secretary of State a certified copy of the decree, which
136 shall be filed in the Office of the Secretary of State and shall
137 remain a permanent record thereof. If an appeal is taken from the
138 decree and the decree is affirmed, then the certified copy of the
139 decree shall be forwarded to the Secretary of State within ten
140 (10) days after receipt of the mandate from the Supreme Court
141 notifying the clerk of the affirmance.

142 (2) Whenever the corporate limits of any municipality are
143 enlarged as provided in Section 21-1-27, the governing body of the
144 municipality, after the annexation ordinance has become effective,
145 shall forward to the Secretary of State a certified copy of the
146 ordinance, which shall be filed in the Office of the Secretary of
147 State and shall remain a permanent record thereof.

148 **SECTION 8.** Any action on an ordinance proposing the
149 enlargement of municipal boundaries that is pending before a court
150 on the effective date of this act as a result of any prior law
151 shall be withdrawn, and an election as provided in Section 21-1-27
152 may be held.

153 **SECTION 9.** The Attorney General of the State of Mississippi
154 shall submit this act, immediately upon approval by the Governor,
155 or upon approval by the Legislature subsequent to a veto, to the
156 Attorney General of the United States or to the United States
157 District Court for the District of Columbia in accordance with the
158 provision of the Voting Rights Act of 1965, as amended and
159 extended.

160 **SECTION 10.** This act shall take effect and be in force from
161 and after the date it is effectuated under Section 5 of the Voting
162 Rights Act of 1965, as amended and extended.